



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Mr. Martin Segura
Assistant Superintendent
for Personnel Services
Harlingen Consolidated Independent
School District
905 East Tyler
Harlingen, Texas 78550-7133

OR95-1545

Dear Mr. Segura:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37136.

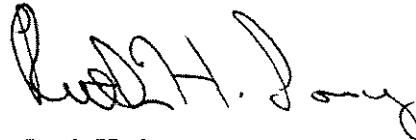
The Harlingen Consolidated Independent School District (the "district") received an open records request for the personnel file of a former district employee. You state that you have released to the requestor most of the requested records. However, you seek to withhold three memoranda contained in the personnel file "because I feel they are a source of intimate and possible embarrassing information on the former employee." We infer that you contend the memoranda come under the protection of common-law privacy and thus must be withheld from the public pursuant to section 552.102(a) of the Government Code, which protects "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"

Section 552.102(a) is designed to protect public employees' personal privacy. The scope of section 552.102(a) protection, however, is very narrow. *See* Open Records Decision No. 336 (1982). *See also* Attorney General Opinion JM-36 (1983). The test for section 552.102(a) protection is the same as that for information protected by common-law privacy under section 552.101: to be protected from required disclosure the information must contain highly intimate or embarrassing facts about a person's *private* affairs such that its release would be highly objectionable to a reasonable person *and* the information must be of no legitimate concern to the public. *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 550 (Tex. App.-Austin 1983, writ ref'd n.r.e.).

The information at issue pertains solely to the former employee's actions as a public servant, and as such cannot be deemed to be outside the realm of public interest. *See* Open Records Decision No. 444 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees). Section 552.102(a) was not intended to protect the type of information at issue here. We therefore conclude that the district must release the three memoranda in their entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/rho

Ref.: ID# 37136

Enclosures: Submitted documents

cc: Mr. Bruce W. Hodge
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Third Floor, Suite 310
Harlingen, Texas 78550
(w/o enclosures)